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8 **BEFORE THE**
9 **BOARD OF REGISTERED NURSING**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. **2011-150**

13 **VIKTOR PETROVICH VAVRINYUK**
P.O. Box 6871
14 Folsom, CA 95763

A C C U S A T I O N

15 Registered Nurse License No. 705410

16 Respondent.

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19 Complainant alleges:

20 **PARTIES**

21 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her
22 official capacity as the Interim Executive Officer of the Board of Registered Nursing (Board),
23 Department of Consumer Affairs,

24 2. On or about June 25, 2007, the Board issued Registered Nurse License Number
25 705410 to Viktor Petrovich Vavrinyuk (Respondent). Respondent's registered nurse license was
26 in full force and effect at all times relevant to the charges brought herein and will expire on
27 September 30, 2010, unless renewed.

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STATUTORY PROVISIONS

3. Business and Professions Code (Code) section 2750 provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.

4. Code section 2764 provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license. Under Code section 2811, subdivision (b), the Board may renew an expired license at any time within eight years after the expiration.

5. Code section 2761 states, in pertinent part:

The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

(a) Unprofessional conduct . . .

6. Code section 2762 states, in pertinent part:

In addition to other acts constituting unprofessional conduct within the meaning of this chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed under this chapter to do any of the following:

(a) Obtain or possess in violation of law, or prescribe, or except as directed by a licensed physician and surgeon, dentist, or podiatrist administer to himself or herself or furnish or administer to another, any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code or any dangerous drug or dangerous device as defined in Section 4022.

(e) Falsify, or make grossly incorrect, grossly inconsistent, or unintelligible entries in any hospital, patient, or other record pertaining to the substances described in subdivision (a) of this section.

7. Health and Safety Code section 11173 states, in pertinent part:

(a) No person shall obtain or attempt to obtain controlled substances, or procure or attempt to procure the administration of or prescription for controlled substances, (1) by fraud, deceit, misrepresentation, or subterfuge; or (2) by the concealment of a material fact.

COST RECOVERY

8. Code section 125.3 provides, in pertinent part, that the Board may request the administrative law judge to direct a licensee found to have committed a violation or violations of

1 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
2 enforcement of the case.

3 CONTROLLED SUBSTANCES AT ISSUE

4 9. "Lorazepam" is a Schedule IV controlled substance as designated by Health and
5 Safety Code section 11057, subdivision (d)(16).

6 10. "Morphine" is a Schedule II controlled substance as designated by Health and
7 Safety Code section 11055, subdivision (b)(1)(M).

8 11. "Norco," a brand of Hydrocodone Bitartrate and Acetaminophen, is a Schedule III
9 controlled substance as designated by Health and Safety Code section 11056, subdivision (e)(4).

10 12. "Percocet," a brand of Oxycodone, is a Schedule II controlled substance as
11 designated by Health and Safety Code section 11055, subdivision (b)(1)(N).

12 FIRST CAUSE FOR DISCIPLINE

13 (False Entries in Hospital/Patient Records)

14 13. Respondent is subject to disciplinary action pursuant to Code section 2761,
15 subdivision (a), on the grounds of unprofessional conduct, as defined by Code section 2762,
16 subdivision (e), in that in and between September and October 2008, while on duty as a
17 Registered Nurse in the Progressive Care Unit at Mercy General Hospital, Sacramento,
18 California, Respondent falsified, or made grossly incorrect, grossly inconsistent, or unintelligible
19 entries in hospital, patient, or other records pertaining to the controlled substances Norco,
20 Morphine, Lorazepam, and Percocet, as follows:

21 Patient 1:

22 a. On October 21, 2008, at 0829 hours, Respondent removed two Norco 5/325 tablets
23 from the Omnicell (automated medication dispensing unit) for the patient, but failed to chart the
24 administration of the Norco on the patient's Medication Administration Record (MAR),
25 document the wastage of the Norco in the Omnicell, and otherwise account for the disposition of
26 the two Norco 5/325 tablets.

27 b. On October 21, 2008, at 1319 hours, Respondent removed one Norco 10/325 tablet
28 from the Omnicell for the patient, but failed to chart the administration of the Norco on the

1 patient's MAR, document the wastage of the Norco in the Omnicell, and otherwise account for
2 the disposition of the one Norco 10/325 tablet.

3 **Patient 3:**

4 c. On October 21, 2008, at 1057 hours, Respondent removed one Norco 5/325 tablet
5 from the Omnicell for the patient, charted on the patient's MAR that he administered the Norco to
6 the patient at 1055 hours, but failed to document on the Nursing Flow Sheet a pain assessment of
7 the patient.

8 d. On October 21, 2008, at 1358 hours, Respondent removed one Norco 10/325 tablet
9 from the Omnicell for the patient, charted on the patient's MAR that he administered the Norco to
10 the patient at 1355 hours, but failed to document on the Nursing Flow Sheet a pain assessment of
11 the patient.

12 **Patient 6:**

13 e. On September 5, 2008, at 0759 hours, Respondent removed one Norco 5/325 tablet
14 from the Omnicell for the patient, but charted on the patient's MAR that he administered one
15 10/325 tablet of Norco to the patient at 0800 hours.

16 f. On September 5, 2008, at 0927 hours, Respondent removed one Norco 5/325 tablet
17 from the Omnicell for the patient, but failed to chart the administration of the Norco on the
18 patient's MAR, document the wastage of the Norco in the Omnicell, and otherwise account for
19 the disposition of the one Norco 5/325 tablet.

20 **Patient 7:**

21 g. On September 14, 2008, at 0733 hours, Respondent removed one Norco 5/325 tablet
22 from the Omnicell for the patient, but charted on the patient's MAR that he administered one
23 10/325 tablet of Norco to the patient at 0735 hours.

24 h. On September 14, 2008, at 0927 hours, Respondent removed one Norco 5/325 tablet
25 from the Omnicell for the patient, but failed to chart the administration of the Norco on the
26 patient's MAR, document the wastage of the Norco in the Omnicell, and otherwise account for
27 the disposition of the one Norco 5/325 tablet.

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Patient 8:

i. On September 4, 2008, at 0830 hours, Respondent removed one Norco 5/325 tablet from the Omnicell for the patient, but charted on the patient's MAR that he administered one 10/325 tablet of Norco to the patient at 0830 hours.

j. On September 4, 2008, at 0956 hours, Respondent removed one Norco 5/325 tablet from the Omnicell for the patient, but failed to chart the administration of the Norco on the patient's MAR, document the wastage of the Norco in the Omnicell, and otherwise account for the disposition of the one Norco 5/325 tablet.

k. On September 5, 2008, at 0759 hours, Respondent removed one Norco 5/325 tablet from the Omnicell for the patient, but charted on the patient's MAR that he administered one 10/325 tablet of Norco to the patient at 0800 hours.

l. On September 5, 2008, at 0925 hours, Respondent removed one Norco 5/325 tablet from the Omnicell for the patient, but failed to chart the administration of the Norco on the patient's MAR, document the wastage of the Norco in the Omnicell, and otherwise account for the disposition of the one Norco 5/325 tablet.

Patient 12:

m. On October 30, 2008, at 1428 hours, Respondent removed Morphine 4 mg from the Omnicell for the patient, but failed to chart the administration of the Morphine on the patient's MAR, document the wastage of the Morphine in the Omnicell, and otherwise account for the disposition of the Morphine 4 mg.

n. On October 31, 2008, at 0855 hours, Respondent removed Lorazepam 2 mg from the Omnicell for the patient, but charted on the patient's MAR that he administered 1 mg of the Lorazepam at 0855 hours and the remaining 1 mg of Lorazepam at 1810 hours.

o. On October 31, 2008, at 1417 hours, Respondent removed two Percocet tablets from the Omnicell for the patient, charted on the patient's MAR that he administered the two Percocet tablets to the patient at 1415 hours, but documented on the Nursing Flow Sheet that he gave the patient two Norco tablets.

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1 **Patient 8:**

2 e. On September 4, 2008, at 0956 hours, Respondent removed one Norco 5/325 tablet
3 from the Omnicell for the patient, but failed to chart the administration of the Norco on the
4 patient's MAR, document the wastage of the Norco in the Omnicell, and otherwise account for
5 the disposition of the one Norco 5/325 tablet.

6 f. On September 5, 2008, at 0925 hours, Respondent removed one Norco 5/325 tablet
7 from the Omnicell for the patient, but failed to chart the administration of the Norco on the
8 patient's MAR, document the wastage of the Norco in the Omnicell, and otherwise account for
9 the disposition of the one Norco 5/325 tablet.

10 **Patient 12:**

11 g. On October 30, 2008, at 1428 hours, Respondent removed Morphine 4 mg from the
12 Omnicell for the patient, but failed to chart the administration of the Morphine on the patient's
13 MAR, document the wastage of the Morphine in the Omnicell, and otherwise account for the
14 disposition of the Morphine 4 mg.

15 **PRAYER**

16 **WHEREFORE**, Complainant requests that a hearing be held on the matters herein alleged,
17 and that following the hearing, the Board of Registered Nursing issue a decision:


18 1. Revoking or suspending Registered Nurse License Number 705410, issued to Viktor
19 Petrovich Vavrinyuk;

20 2. Ordering Viktor Petrovich Vavrinyuk to pay the Board of Registered Nursing the
21 reasonable costs of the investigation and enforcement of this case, pursuant to Business and
22 Professions Code section 125.3;

23 3. Taking such other and further action as deemed necessary and proper.

24 DATED: _____

8/19/10


LOUISE R. BAILEY, M.ED., RN
Interim Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant